



## **DEPARTMENT OF LABOR**

### **Office of Workers' Compensation Programs**

#### **20 CFR Part 30**

#### **RIN 1240-AA08**

### **Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act**

**AGENCY:** Office of Workers' Compensation Programs, Department of Labor.

**ACTION:** Final rule; correction.

**SUMMARY:** On February 8, 2019, the Department of Labor (Department) published in the *Federal Register* a final rule that revised its regulations governing its responsibilities under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA). However, the final rule as published inadvertently omitted amendatory instructions to retain two subordinate paragraphs. This document corrects the error.

**DATES:** This correction is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and is applicable beginning April 9, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rachel D. Pond, Director, Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C-3321, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-693-0081 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department’s February 8, 2019, final rule that revised its regulations governing its responsibilities under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. 7384 et seq. However, the final rule as published inadvertently omitted amendatory instructions to retain the two subordinate paragraphs to 20 CFR 30.210(a)(1), i.e., 20 CFR 30.210(a)(1)(i) and (ii). This document provides the omitted amendatory instructions to ensure that § 30.210(a)(1)(i) and (ii) are contained in the final rule as intended by the Department, and notifies the public of how corrected § 30.210(a)(1) now reads.

In the February 8, 2019, final rule, amendatory instruction 17 amended § 30.210 by revising paragraph (a)(1); however, amendatory instruction 17 did not specify that only the introductory text of paragraph (a)(1) required revision, and that the two subordinate paragraphs to § 30.210(a)(1), i.e., 20 CFR 30.210(a)(1)(i) and (ii), were to remain in the final rule. Amendatory instruction 17 should have revised only the introductory text of paragraph (a)(1).

This correcting amendment is in keeping with the Department’s clearly expressed intent in the preamble of the final rule to update a cross-reference in § 30.210(a)(1), and not to make any other change in § 30.210(a)(1). The omission of § 30.210(a)(1)(i) and (ii) in the final rule had no substantive effect because those subordinate paragraphs are explicit requirements in section 7384l(9)(A) of EEOICPA, and therefore cannot be ignored in the adjudication of claims under EEOICPA.

### **List of Subjects in 20 CFR Part 30**

Administrative practice and procedure, Cancer, Claims, Kidney diseases, Lung diseases, Miners, Radioactive materials, Underground mining, Uranium, Workers' compensation.

Therefore, the Department amends 20 CFR part 30 by making the following correcting amendment:

**PART 30—CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES  
OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS  
AMENDED**

1. The authority citation for part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3716 and 3717; 42 U.S.C. 7384d, 7384t, 7384u and 7385s-10; Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 10-2009, 74 FR 58834.

2. Amend § 30.210 by revising paragraph (a)(1) to read as follows:

**§ 30.210 What are the criteria for eligibility for benefits relating to radiogenic cancer?**

(a) To establish eligibility for benefits for radiogenic cancer under Part B of EEOICPA, an employee or his or her survivor must show that:

(1) The employee has been diagnosed with one of the forms of cancer specified in § 30.5(gg); and

(i) Is a member of the Special Exposure Cohort (as described in § 30.214(a) of this subpart) who, as a civilian DOE employee or civilian DOE contractor employee, contracted the specified cancer after beginning employment at a DOE facility; or

(ii) Is a member of the Special Exposure Cohort (as described in § 30.214(a) of this subpart) who, as a civilian atomic weapons employee, contracted the specified cancer after beginning employment at an atomic weapons employer facility (as defined in § 30.5(e)); or

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Signed at Washington, D.C., this 13th day of August, 2021.

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**Christopher J. Godfrey,**  
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